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C O N F I D E N T I A L SECTION 01 OF 04 ANKARA 005141

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DEPARTMENT FOR EUR/SE

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TAGS: [PGOV](#) [PREL](#) [PHUM](#) [TU](#)

SUBJECT: GOT'S NON-MUSLIM PROPERTY REFORMS FALL SHORT

REF: A. ISTANBUL 1279

- [¶B. 02 ANKARA 6116](#)
- [¶C. 02 ANKARA 7290](#)
- [¶D. 02 ANKARA 8586](#)
- [¶E. 03 ISTANBUL 202](#)
- [¶F. 03 ANKARA 2909](#)
- [¶G. ISTANBUL 843](#)
- [¶H. 02 ISTANBUL 1778](#)

Classified By: Classified by Ambassador Eric S. Edelman; reasons 1.4 b and d.

[¶1. \(C\) Summary:](#) EU observers and representatives of Turkey's non-Muslim communities criticize as inadequate GOT reforms designed to allow non-Muslim foundations to acquire property.

While the GOT has approved more than 700 applications to acquire legal ownership of properties already under the de-facto control of the non-Muslim communities, the reforms do not allow the communities to reclaim the hundreds of properties expropriated by the State over the past 30 years, nor do they interrupt the ongoing process whereby the State seizes control of properties in areas where the local non-Muslim population dwindles. An EU contact says the GOT's lack of progress in this area will be cited in the EU Commission's October report on Turkey. Representatives of Istanbul's Greek Orthodox, Armenian Orthodox, and Jewish communities are hopeful that a new regulation will help them maintain properties by loosening restrictions on foundation board elections, although they are wary that provincial governors would retain control over the process. Relations between the State and the Greek and Armenian Orthodox communities are strained by a history of regional conflict. It will take considerable time to overcome historic distrust exacerbated by decades of Turkish discrimination. Nevertheless, we recommend USG officials advocate several measures the GOT can take before the December EU Summit to make progress on the property issue (see para 8). End Summary.

EU, Non-Muslims Criticize Reforms

[¶2. \(C\)](#) As part of its EU-related reform effort, the GOT has attempted to address the conflict over properties belonging to Turkey's historic non-Muslim communities by adopting legislation intended to allow non-Muslim foundations to acquire property for the first time since a 1974 court ruling declared all post-1936 acquisitions illegal (reflets). Under the reforms, the GOT has approved hundreds of applications by these foundations to legalize their de-facto ownership of various properties. However, members of the minority religious communities and EU observers criticize the reforms as inadequate. The critics note that the reform legislation fails to provide the non-Muslim communities an opportunity to reclaim the extensive number of properties seized by the State since the 1974 court ruling, and leaves intact a set of regulations under which the State continues to seize foundations and properties when the non-Muslim community in a particular area dwindles. Sema Kilicer, political officer at the EU Representation to Turkey, told us the meager results of the property reforms are one reason the European Commission will cite religious freedom as a weak area in its October report on Turkey. "As far as Brussels is concerned, there is no progress in this area," she said.

1974 Ruling Launches Expropriations

[¶3. \(U\)](#) At issue are properties historically belonging to Turkey's non-Muslim communities. In 1936, the GOT required all foundations to declare their sources of income. In 1974, amidst mounting tensions over Cyprus, the Turkish Court of Appeals issued a ruling declaring that minority religious foundations had no right to acquire properties beyond those listed in the 1936 declarations. That ruling launched a process under which the State has seized control of properties acquired after 1936, or properties in areas where the local non-Muslim community has dwindled. Most of the expropriated properties belonged to Greek Orthodox and

Armenian Orthodox foundations. The properties include not only churches but also rent-generating assets such as apartment buildings.

Most Applications Rejected or Returned

14. (U) Following the property reforms adopted in 2002, minority foundations submitted more than 2,000 applications to legally acquire properties. The General Directorate of Foundations (Vakiflar), which oversees the process, states that to date it has approved 719 applications, rejected 897, and returned 337 due to lack of documentation. Adnan Ertem, acting director of the Vakiflar for the Istanbul region, told us that two-thirds of the rejected applications were for properties that have been expropriated by the State. The reform legislation, he noted, does not allow the foundations to re-acquire these properties. The remaining one-third includes properties registered in a name other than that of the foundation attempting to claim it. Representatives of the Greek Orthodox and Armenian Orthodox communities in Istanbul told us the foundations in the past often registered properties in the names of saints, archangels -- or even under fictitious names -- because they were not permitted to use the foundation's name on the deed. They argue that it is well known that the religious communities have long controlled these properties, and accuse the Vakiflar of bureaucratic obstructionism. Ertem, however, counters that the Vakiflar is just doing its job. If a property is registered under "Jesus, Son of Mary," for example, the Vakiflar cannot award ownership to a foundation with a different name.

Expropriation Process Continues

15. (U) Ata Sakmar, an attorney who advises the Greek Orthodox Community, argued to us that the reform legislation is fundamentally flawed, and no amount of bureaucratic flexibility will make it effective. While the reforms may enable minority foundations to acquire new assets -- the Vakiflar reports it has approved all four applications filed for acquisition of new properties -- this has little meaning. These communities are not growing; in general, they are not looking to acquire new assets but rather to re-acquire expropriated properties and gain legal ownership of properties they control indirectly. Meanwhile, the reforms have left intact the regulatory process under which the Vakiflar continues to seize foundations and their assets. When the non-Muslim community in a specific area dwindles, the Vakiflar can assume direct administration of the community's properties. If a foundation is unable to maintain a board of directors, the Vakiflar can request a court to appoint a curator to take charge. After 10 years, the Vakiflar can assume direct control. Sakmar said the Greek Orthodox have lost dozens of foundations this way, including more than 30 since the 1960s. Turkey's Greek Orthodox population, meanwhile, has plummeted from millions at the turn of the 20th Century, including more than 500,000 in Istanbul alone, to less than 3,000 today. The reforms will not matter so long as the State continues to relentlessly squeeze out the non-Muslim communities, Sakmar maintained.

"Top Secret" Bill Could Loosen Restrictions

16. (C) Yusuf Beyazit, Vakiflar Director General, averred to us it would be "impossible" for the State to allow the minority communities to re-claim expropriated properties. The State has taken control of more than 39,000 foundations over the years; a tiny fraction of these are non-Muslim, while the rest are Muslim. If the non-Muslim communities were allowed to recover these foundations and their assets, thousands of Muslim groups would seek to do the same. The whole foundation system would crumble in the chaos. On the other hand, Beyazit believes it would be possible to allow the foundations to attain legal ownership of the properties they control indirectly under names of third parties (Jesus, Son of Mary, etc.). He said he is drafting a new Foundations Law that would make this possible. Saying the draft is "top secret," he declined to elaborate, but said he expects to

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complete it soon and forward it to the Cabinet.

Draft Regulation May Bring Some Relief

17. (C) Members of the minority communities say the process is stacked against them. The regulations for electing foundation board members limit the electorate to the district

where the foundation is located. If the community dwindles or members move, to another neighborhood of Istanbul for example, they may not retain enough voters in a borough to hold elections, and could thereby lose control of a church or rent-generating property that remains vital to their future. Ecumenical Patriarch Bartholomew told us the authorities have taken this even further with the Greek Orthodox. Since 1990, the Istanbul Governor's office has rejected without explanation nearly all applications by Greek Orthodox foundations to hold board elections, even when the size of the local Greek Orthodox community was sufficient, making exceptions in only a handful of cases under international pressure, he said. (Note: The other communities have not complained of similar treatment. The Jewish community even obtained waivers of the population requirement for districts by arguing that sufficient numbers of voters worked, but did not reside, in a district. End Note). The GOT has drafted a new regulation that would authorize governors to expand the electoral districts in cases where there are not enough members of a religious community in a given borough. Beyazit said the new regulation should be put into effect shortly. Greek Orthodox, Armenian Orthodox, and Jewish representatives told us they are in favor of the new regulation, but remain wary of how governors will use their authority to determine whether to expand the districts.

Conflict Rooted in History

18. (C) For the Greek and Armenian Orthodox, the root of the problem lies in a history of conflict that has engendered a lack of trust between the communities and the State. GOT officials are often quick to point fingers at the Greek and Armenian communities for their support of invading armies during World War I and its aftermath. They also tend to link the rights of Greek Turks to the rights of the Turkish minority in Greece. Ertem even went so far as to accuse the Patriarch of using his influence to persuade the Greek Government to restrict the rights of the Turkish minority. Patriarch Bartholomew argues that the GOT, which has taken many "courageous steps" in other areas, should put this past behind it. "Turkey is a strong state. We are not a threat," he said. "If Greeks supported invaders in the 1920s, are we to blame in 2004?" Ercan Aslantas, head of the Ministry of Interior's International Affairs Department, agreed, but said the communities will have to show patience. Aslantas, whom many EU and minority contacts have praised for his support of reforms, argues that the property issue is complex, emotional, and deeply tangled in history. The GOT has taken some steps and will take more. But it cannot resolve overnight a problem developed over generations. "What's the hurry? The land isn't going anywhere," he said. "They will have to show patience on this one."

Comment and Recommendation

19. (C) The GOT is under EU pressure to make quick, concrete progress on the property issue, and other matters of religious freedom for non-Muslims. FM Gul and others have publicly dangled the promise of further reforms. Nevertheless, religious freedom has proven to be one of the areas where the GOT has made the least progress in following through on its promises. The very nature of the legal structure that requires the religious communities to form foundations in order to own properties undermines religious freedom and invites bureaucratic abuse. While we agree that the Turkish State and the non-Muslim communities cannot build a new relationship overnight, there are some steps the GOT can take before the December EU Summit on the property issue. We recommend that USG officials advocate the following steps in contacts with GOT officials:

- Adopt regulations allowing for expanded electoral districts for minority foundations. If necessary, the electorate should include all of Istanbul, or all of Turkey;
- Adopt a new law allowing minority foundations to re-claim properties expropriated by the State;
- Develop a system whereby foundations can establish legal ownership over properties in their control but registered under a different name. This could be done, for example, by creating a committee to review such cases and determine ownership. The committee could set a deadline for submitting applications in order to limit the potential for frivolous claims.

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